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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,628	12/27/2001	Scott R. Gibson	047711-0286	9537

7590 11/02/2004
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EXAMINER

MENDEZ, MANUEL A

ART UNIT PAPER NUMBER

3763

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/034,628

Applicant(s)

GIBSON ET AL.

Examiner

Manuel Mendez

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2004.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-55 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. **Claims 1-19**, drawn to an infusion device for delivering infusion medium to a patient and for receiving infusion medium from a hollow needle during a fill or re-fill operation, the device comprising **a housing having a reservoir portion** for containing a volume of infusion medium and an outlet through which infusion medium may be dispensed; and **an inlet structure** provided in fluid flow communication with the reservoir portion of the housing, **the inlet structure having an inlet opening and a generally cone-shaped depression for receiving and guiding a tip of a needle toward the inlet opening, the generally cone-shaped depression having an average angle of convergence within the range of about 60 and about 150 degrees**, classified in class 604, subclass 891.1.
- II. **Claims 20-23, 35-39, and 50-55**, drawn to **a housing having a reservoir portion** for containing a volume of infusion medium and an outlet through which infusion medium may be dispensed; and **an inlet structure** provided in fluid flow communication with the reservoir portion of the housing, **the inlet structure having an inlet opening, a septum and a support member**, wherein the septum has a thickness dimension and a recess and is disposed in relation to the inlet opening, to seal the inlet

opening; wherein the support member has a thickness dimension and is disposed within the recess of the septum to support the septum, such that at least a portion of the thickness of the support member overlaps a portion of the thickness of the septum to reduce the combined thickness of the septum and support member, classified in class 604, subclass 288.02.

- III. **Claims 24-34 and 47-49**, drawn to a **housing having a reservoir** for containing a volume of infusion medium and an outlet through which infusion medium may be dispensed; and an **inlet structure** provided in fluid flow communication with the reservoir portion of the housing, **the inlet structure having an inlet opening, a septum, a moveable valve member and means for imparting a force on the valve member** to urge the valve member against the septum; wherein the septum has a side disposed in relation to the inlet opening, to seal the inlet opening; wherein the valve member is disposed on the opposite side of the septum relative to the side of the septum that seals the inlet opening, the valve member being moveable between a first state in which the valve member contacts the septum and a second state in, classified in class 604, subclass 288.03.
- IV. **Claims 40-46**, drawn to a housing, an inlet structure and a cap, classified in class 604, subclass 288.01.

The inventions are distinct, each from the other because of the following reasons:

Inventions I-IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, inventions I-IV have separate utility in view of the structural differences indicated above. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

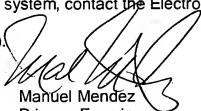
Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Manuel Mendez whose telephone number is 703-308-2221. The examiner can normally be reached on 0730-1800 hrs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Brian Casler can be reached on 703-308-3552. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3763

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Manuel Mendez
Primary Examiner
Art Unit 3763

MM